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10/674,353	10/01/2003	Kenichiro Yasui	A429-1	3814
21254 7590 03/31/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENICHIRO YASUI and MITSURU KURODA

Appeal 2007-2996
Application 10/674,353
Technology Center 2800

Decided: March 31, 2008

Before JOSEPH F. RUGGIERO, ANITA PELLMAN GROSS, and MARC S. HOFF, *Administrative Patent Judges*.

GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL
STATEMENT OF THE CASE

Yasui and Kuroda (Appellants) appeal under 35 U.S.C. § 134 from the Examiner's Final Rejection of claims 1, 2, 13 through 16, and 19. We have jurisdiction under 35 U.S.C. § 6(b).

Appellants' invention relates to a cell phone structure in which a display and screen are formed in a recess on the top portion, and operation keys are formed on the bottom portion such that they project into the recess when the phone is closed with the top portion folded over the bottom

portion. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A foldable electronic device including a first body having a display covered by a screen and a second body having an interface through which a user can operate said electronic device,

said first body and said second body being rotatable to each other through a hinge,

said first body having a first surface facing said second body when said electronic device is folded, said second body having a second surface facing said first body when said electronic device is folded,

said interface projecting by a height from said second surface,

said first body comprising a recess with said first surface, said recess aligning with said interface when said electronic device is folded, and having a depth equal to or greater than said height, and

said display and said screen being located within said recess.

The prior art reference of record relied upon by the Examiner in rejecting the appealed claims is:

Murray US 6,011,699 Jan. 04, 2000

Claims 1, 2, 13 through 16, and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Murray.

We refer to the Examiner's Answer (mailed November 22, 2006) and to Appellants' Brief (filed October 23, 2006) and Reply Brief (filed January 22, 2006) for the respective arguments.

SUMMARY OF DECISION

As a consequence of our review, we will reverse the anticipation rejection of claims 1, 2, 13 through 16, and 19.

OPINION

Independent claims 1 and 19 each recite a display and a screen formed in a recess on the first portion of a foldable device, with the depth of the recess being greater than or equal to the height of an interface projecting from a second portion of the device. The Examiner asserts (Ans. 3-4) that Murray discloses a foldable cell phone having a recess between elements 352 and 354 in Figure 4, a display 346 and screen 204 formed in the recess as shown in Figures 5, 6, and 11, and the recess depth being greater than or equal to the height of operation keys projecting from the other portion of the cell phone as shown in Figure 11. Appellants contend (App. Br. 6-7 and Reply Br. 3) that although Murray's display is within a recess, the screen (lens 204) is not located within the recess. The issue, therefore, is whether the display and screen of Murray are both formed in a recess that has a depth greater than or equal to the height of the operation keys.

Murray shows (Figs. 1 and 2) a cell phone with the top housing having a front portion 106 mating with front portion 110 of the bottom housing when the phone is folded. Figure 4 shows various elements of the top housing before they are put together. It is unclear from Figure 4 whether sides 352 and 354 form a recess, as asserted by the Examiner, and particularly whether lens 204 is located therein. On the other hand, Murray shows (Fig. 11) lens 204 forms a surface of the top housing and interface keys 1110 project from the surface of the bottom housing towards lens 204.

Display 346 is formed in a recess behind the lens. Since lens 204 forms the surface of the top housing, the lens clearly is not located *in a recess* in the top housing. Furthermore, we would have to resort to speculation to determine whether the depth of the recess is equal to or greater than the height of the operation keys. Also, the recess in which the display is located does not align with the interface when the device is folded, as recited in independent claims 1 and 19, since the interface extends well beyond the display. Therefore, we cannot sustain the anticipation rejection of claims 1 and 19 nor of their dependents, claims 2 and 13 through 16.

ORDER

The decision of the Examiner rejecting claims 1, 2, 13 through 16, and 19 under 35 U.S.C. § 102(b) is reversed.

REVERSED

tdl/gw

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